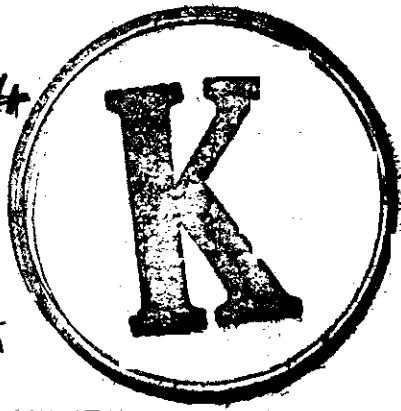


1944



File No. Rationing II
Part II 145

Legal Dept-
B BRANCH

Subject:— Regulations and Notifications
under the Bombay Rationing order
1943

English

02

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If an amount is deposited by an authorised retail distribution and a bond executed by him agreeing to the forfeiture of the amount for breach of any of the stipulations of the bond, the forfeiture of the deposit would not be governed by the provisions of section 74 of the Indian Contract Act, 1872 but if reasonable in amount would be treated as valid according to the decision in I.L.R. 29 Madras 118.

2 The undertaking at pages 23-24 ante is a bond within meaning of section 2(5) of the Indian Stamp Act, 1899, and will be chargeable with stamp duty under article 15 of Schedule I to the Act read with Bombay Act XIV of 1943, section 2.

3 Under section 29 of the Indian Stamp Act in the absence of an agreement to the contrary, the expense of providing the proper stamp duty shall, in the case of article 15 (Bond) be borne by the person executing such instrument. In the present case the Authorised Retail Distribution will execute the bond but he will not be liable to pay the stamp duty, since under condition (7) of the bond Government has agreed to bear the expenses of providing the stamp duty. As Government would be liable to pay the stamp duty the bond will be exempt from stamp duty under proviso (1) to section 3 of the Act.

Id./P.N.E. 12/7/44

Remembrancer of Legal Affairs.

U.R. to Controller of Rationing, No. 4940, dated the 13th July 1944.

SMR 12-7-56
4 Copies.

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Section 12(1) of the Bombay Weights and Measures Act, 1932 (Bom. XV of 1932) provides that subject to the provisions of section 46, and notwithstanding anything contained in any law for the time being in force, all dealings had in any area after that Part (Part II) shall have come into force in the said area for any goods to be sold or delivered by weight or measure shall be deemed to be had according to one of the standard weights or measures or to multiples or submultiples thereof and it shall not be lawful to use any other weight or measure. Section 33 provides penalty for selling by other than standard weights and measures. The purpose of fixing the quantum of cereal rations in the present case is to regulate the supply of cereals to the ration card holders. Since no dealings for goods to be sold or delivered by measure can be had according to any measures other than standard measures and since "local measure heaped seer" is not one of the standard measures according to the First Schedule of the Act, it is not correct to use the expression "7 local measure heaped seers". The First Schedule to the Act gives the Bombay seer as one of the dry standard measures. Explanation 1 below that describes the Bombay seer, dry measure as the unit of capacity equivalent to the volume occupied by 80 tolas of air-free distilled water weighed in Standard Indian Air against brass weights having a specific gravity of 8.143. Since this volume can only be a cut measure, the Act does not recognise any "heaped" measure.

2 The solution of the Controller of Rationing at page 14 is to prescribe the quanta of rations in terms of tolas (presumably he means Bombay tolas) where weights are used and in terms of Bombay seers where dry measures are used, and allow local equivalents to be used by executive instructions. It will be seen from Government Notifications, General Department, No. 9518 dt. the 8th August 1934 and 11th December 1934 at page 516 of Local Rules and Orders Volume IV that the Act has been brought into force in the whole of the Province. The Controller of Rationing's proposal to permit actual use of local measures is not

reasonable in view of the prohibition contained in section 12(1) read with section 33 of the Act.

3 Attention is however invited to section 46 which gives power to Government to exempt persons, articles or trades from the provisions of the Act. It is therefore open to the Provincial Government to exempt the sale and delivery of rationed articles by the authorised retail distributors from the prohibition contained in section 12 of the Act.

Attention is also invited ^{to sub-section} ~~section~~ (2) of section 4 of the Act which enables Government to authorise as standard measure any measure or multiple or submultiple of a measure not appearing in the Schedule to the Act, for any trade or class of trades. Special measures may if necessary be authorised by notifications in relation to specific rationing regulations or trading activities.

Id./ P.N.E. 27/7/44

Remembrancer of Legal Affairs.

U.R. to Finance Department(Supply). No. 5336 dated 28th July 1944.

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